

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNDER SEAL

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 13-10200-GAO
)
 DZHOKHAR TSARNAEV)

**MOTION FOR ORDER TO FACILITATE
ATTENDANCE OF FOREIGN WITNESSES**

Defendant, Dzhokhar Tsarnaev, by and through counsel, respectfully requests that the Court order the U.S. Bureau of Customs and Border Protection and/or Bureau of Immigration and Customs Enforcement to grant advance parole status and to issue a Form I-512, pursuant to 8 C.F.R. 212.5(b)(4) and 8 U.S.C. 1182(d)(5)(a), to the persons identified in the attached proposed sealed/ex parte order attached as Exhibit A. In connection with this request, the defense further renews its previous request that the government be required to designate (an) immigration agent(s) and/or official(s) who are firewalled from the prosecution team and case agents to facilitate attendance of the witnesses.

Defendant also requests that the U.S. Marshals be directed to pay for the travel and subsistence of the witnesses pursuant to 28 U.S.C. § 1821.

As grounds for this motion, undersigned counsel submits that the identified individuals are defense witnesses for the penalty stage of the case (and, in two instances,

necessary travel companions). *See* sealed/ex parte statement of counsel, attached as Exhibit B.

Immigration authorities are expressly authorized to parole into the United States aliens “who will be witnesses in proceedings being, or to be conducted by judicial, administrative or legislative bodies in the United States.” 8 C.F.R. 212.5(b)(4); *see also* *United States v. Filippi*, 918 F.2d 244, 247 (1st Cir. 1990) (holding that failure to assist in obtaining parole for foreign witnesses would violate 5th and 6th Amendments). In *United States v. Almonhandis*, No. 04-CR-10004-PBS (D. Mass.), Chief Judge Saris granted an analogous motion to facilitate the entry of defense witnesses and necessary travel companions from Saudi Arabia. *See Almonhandis*, DE 33, 37; *see also* *United States v. Abeiv*, No. 96-694 (W.D. Wa. 1997), DE 77 (requesting order for INS to parole witnesses into U.S. and for USMS to pay expenses); DE 120 (granting motion).

Respectfully submitted,

DZHOKHAR TSARNAEV
by his attorneys



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Certificate of Service

I hereby certify that this document is being served upon counsel for the United States by hand delivery and e-mail PDF on March 10, 2015.

